

The Government's proposal for an 'English only' stage in the House of Commons could create problems

By Democratic Audit

*The Coalition Government has proposed a new measure to counteract some of the asymmetries brought about by devolution, which could see English MPs enjoying what amounts to a 'Fourth Reading Veto'. **Andrew Blick** argues that this measure, if successful, could fundamentally change the way the House of Commons deals with legislation, and makes the case for a more inclusive and less partisan approach to constitutional reform.*

Recent media reports suggest that the government intends to instigate a significant change to the way in which Parliament carries out one of its most fundamental functions: the production of legislation. Any such development requires full consideration not only on its own merits, but for the way it fits into the overall constitutional framework of the UK. Piecemeal action, of the sort frequently deployed in the UK, could produce unfortunate consequences.

The government intends to correct an anomaly raised by asymmetrical devolution in the UK. MPs representing Commons constituencies in Northern Ireland, Scotland and Wales can vote on and debate on matters which have been devolved to their parts of the UK and consequently do not directly affect them; while English MPs cannot become involved in the same way in devolved issues.

In theory this arrangement could lead to the passing of a law which only affected England, despite being opposed by a majority of English MPs. Opinion research suggests that this position is regarded as unfair in England. There is an important party political dimension, too. The Conservatives have relatively greater Commons representation in England than in other parts of the UK. Consequently, any arrangement that gave a specific parliamentary voice to England could be seen as enhancing the Conservative position. Unsurprisingly the party has long advocated reform in this area.



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The Coalition agreement struck between the Conservatives and Liberal Democrats in May 2010 contained a commitment to establish what became the [Commission](#) on the consequences of devolution for the House of Commons with William McKay, former Clerk of the House of Commons, in the chair. It reported in March [this year](#). The Commission advocated the principle that decisions impacting specifically on England should usually only be taken with the consent of the majority of English MPs (and an adapted version of this principle should apply to measures with an effect on England and Wales). It offered a range of possible procedural options: an English Grand Committee voting on legislative consent motions before the second reading of a bill; public bill committees composed of English MPs; an English report committee, with an option for 'repeal after report'; special committees in the Lords; English pre-legislative scrutiny; and reporting which part of the UK MPs come from in parliamentary voting lists.

In its response to the Commission, the Coalition is reportedly intent upon introducing, through changes to the Commons Standing Orders, what would be in effect a 'fourth reading' stage to bills. English MPs would by this means be given the right to register their approval or otherwise of legislation – or perhaps clauses within legislation – that is specific to England. Whether or not English MPs would possess an absolute veto, or simply the right to ask Parliament as a whole to look again is unclear. But policy areas that are key for any government would be covered, amongst them health, education, housing and local government.

It is important to place this possible change in its wider context. The UK is passing through a phase of enormous constitutional change. It can be traced to the 1990s, and particularly 1997 when Tony Blair and New Labour took office. The measures introduced under the last government included devolution to Northern Ireland, Scotland, Wales and London; the incorporation of the European Convention on Human Rights into domestic law through the Human Rights Act 1998; the creation, by the Freedom of Information Act 2000, of a statutory right to apply for official information; the establishment of a UK Supreme Court through the Constitutional Reform Act 2005; and, under the Constitutional Reform and Governance Act 2010, the placing of the Civil Service on a statutory basis.

The period since May 2010 has seen further dramatic constitutional developments. The formation of a Coalition was itself a remarkable event, since entities of this kind, once a regular feature of UK government, were previously unknown to the post-Second World War period. We have seen a UK referendum on electoral reform, with a further vote on Scottish independence on the way. Fixed-term parliaments of five years duration have been established. The powers of the Welsh Assembly have been extended, as will those of the Scottish Parliament under the Scotland Act 2012 if Scotland remains within the UK. Directly-elected police commissioners are in place. The European Union Act 2012 creates a requirement to hold referendums on further pooling of UK sovereignty at EU level. There is more still to come. The government is in the process of implementing amendments to the royal rules of succession. It wants to introduce changes to the Civil Service that would call into question its impartiality principles. A referendum on position of the UK within the EU is a distinct possibility.

Many of these measures were desirable and have proved worthwhile. But they have not always been executed in a sufficiently considered manner. Reforms may be proposed without sufficient thought given to their full consequences or how they interact with each-other. Notoriously, in 2003 the government announced by press release it was abolishing the office of Lord Chancellor, then realised it could not be done. In 2011, voters were asked to decide on the voting system for the House of Commons without yet knowing what would be the precise content of plans then being considered for an elected House of Lords.

A complete masterplan is neither realisable nor desirable in a democracy. But the 'fourth reading' proposal does suggest the time is becoming ripe for some kind of constitutional convention to take a constitutional overview, though one which cannot be held until Scotland has made a decision about its future in 2014. This body could be cross-party in nature and incorporate a popular element. It could address questions specific to the 'fourth reading' idea, and other related issues. They might include:

How would a UK government function in the – entirely plausible – circumstances of the Labour Party winning a majority of MPs in the Commons as a whole, but not amongst English MPs, making problems for a Labour government in key legislative areas? What would prevent the Labour Party from using its UK parliamentary majority to amend the standing orders again, removing provision for the fourth reading process? Are there other procedural devices it could use to bypass the fourth reading? Might it be choose increasingly to use executive action under existing legislation, rather than introduce new legislation?

If regional devolution takes place within England at some point in the future, what might be the impact upon the voting rights of MPs from the devolved English regions? Or is this measure the alternative to English devolution, precluding its enactment?

What are the appropriate means of taking decisions about the introduction and extension of devolution, including to England? What are the limits to devolution?

Is a unified Civil Service a sustainable proposition in the post-devolution era?

How might a reformed second chamber fit within developing arrangements for the territorial governance of the UK?

What is the best way of taking major constitutional decisions? How much consensus is needed? Should such decisions be entrenched in some way once taken, and if so how?

If it proved possible to set up a constitutional convention considering these issues, a more considered and inclusive, and less partisan, approach to constitutional change might be possible.

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Note: This post represents the views of the author, and not those of Democratic Audit or of the London School of Economics

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